

### REMARKS

At the outset the applicant wishes to express his appreciation to the Examiner for the helpful suggestions pertaining to formal matters in the application.

By the present amendment the applicant has amended claims 1 to 13 to clearly indicate that the claims are directed to an "atraumatic surgical needle". Claims 1 and 3 have also been amended in accordance with the Examiner's suggestions in order to overcome his objections thereto.

In the above identified Office Action the Examiner rejected claims 1 to 3 as being obvious under 35 U.S.C. 103(a) over U.S. Patent No. 5,908,428, to Scirica et al., in view of U.S. Patent No. 5,792,180, to Munoz; claims 4 to 6 and 13 as being obvious over the Scirica et al and Munoz references and further in view of U.S. Patent No. 2,240,330, to Flagg et al; claims 7 to 11 as being obvious over the Scirica et al and Munoz references and further in view of U.S. Patent No. 3,918,455, to Coplan; and claim 12 as being obvious over the Scirica et al and Munoz references and further in view of U.S. Published Patent Application No. 20040260145.

The basis of the rejection made by the Examiner is that the Scirica et al reference discloses a surgical needle having two tips with a central portion having a hole through which emerges a surgical thread anchored inside the needle and that the Munoz

references discloses an atraumatic needle having a tubular shaft. Initially, the applicant wishes to point out to the Examiner that neither the Scirica et al nor the Munoz references relate to atraumatic surgical needles. The subject matter of both references relates to surgical needles for use with suturing apparatus. An atraumatic surgical needle is specifically designed to minimize trauma to the patient as a result of the suturing procedure. As explained under the description of SUTURE in Wikipedia (attached hereto as Exhibit A), an atraumatic needle does not have an eye for passage of the thread and therefore causes less trauma to the tissue because of the lack of the eye and the double thread passing through the eye. As clearly seen in Figures 6 and 7 of Scirica et al, the thread 34 engages needle 200 in the aperture 212 and bulge 214 is compressed to capture the thread (Patent, Column 10, lines 19-28). Obviously, as clearly seen in Figure 7, a bulge remains in needle 200 after engagement of thread 34 so that tissue trauma will be caused by using this needle compared with the use of an atraumatic surgical needle. This is clearly the same problem with the needle of Munoz which also has bulges 22 at thread engaging hole 20.

With respect to the Examiner's characterization of the Munoz reference as teaching "high strength atraumatic needles consisting of a tubular metal shaft (Figures 6, col. 5, lines 1-3)", the applicant believes that the Examiner has misunderstood

the Munoz reference. Nowhere in the description in the Munoz reference is there a disclosure that the needle thereof is "tubular". Figure 6 of Munoz does not show a needle having a tubular structure. Column 5, lines 1-3 of Munoz do not indicate that the Munoz needle has a tubular structure. In fact at Column 6, lines 66-67, the Munoz patent states that the "needle blanks 12 have a generally rectangular or 'beam' cross-section".

Tubular is defined in The American Heritage Dictionary of the English Language at page 1379 as "of or pertaining to a tube or tubes" and tube is defined on the same page as a "hollow cylinder that conveys a fluid or functions as a passage". See Exhibit B attached hereto. Nowhere is Munoz, or in Scirica et al, is the needle structure described or shown as being tubular.

In view of the above, it is respectfully submitted that the combination of the Scirica et al and Munoz references do not disclose, No. 1, an atraumatic surgical needle, and No. 2, a tubular shaped needle, and therefore do not meet the elements of independent claim 1 or any of the dependent claims. Therefore, it is respectfully submitted that the claims in the applications, numbered 1 to 13, are patentable over the cited references and should be allowed.

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